

103D CONGRESS
1ST SESSION

S. 773

To require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, MARCH 3), 1993

Mr. LAUTENBERG (for himself, Mr. BAUCUS, Mr. CHAFEE, Mr. DURENBERGER, Mr. KRUEGER, Mr. LIEBERMAN, Mr. METZENBAUM, Mr. REID, Mr. SIMON, Mr. WARNER, and Mr. WOFFORD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To require the Administrator of the Environmental Protection Agency to establish a program to encourage voluntary environmental cleanup of facilities to foster their economic redevelopment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Voluntary Environ-
5 mental Cleanup and Economic Redevelopment Act of
6 1993”.

1 **SEC. 2. FINDINGS.**

2 (a) FINDINGS.—Congress finds that—

3 (1) past uses of land in the United States for
4 industrial and commercial purposes have created
5 many sites throughout the United States that have
6 environmental contamination;

7 (2) Congress and the governments of States
8 and political subdivisions of States have enacted
9 laws to—

10 (A) prevent environmental contamination;

11 and

12 (B) carry out response actions to correct
13 past instances of environmental contamination;

14 (3) many sites are minimally contaminated, do
15 not pose serious threats to human health or the en-
16 vironment, and can be satisfactorily remediated ex-
17 peditiously with little government oversight;

18 (4) promoting the cleanup and redevelopment of
19 contaminated sites could lead to significant environ-
20 mental and economic benefits, particularly in any
21 case in which a cleanup can be completed quickly
22 and during a period of time that meets short-term
23 business needs;

24 (5) the private market demand for sites af-
25 fected by environmental contamination frequently is
26 reduced or eliminated, often due to uncertainties re-

1 garding liability or potential cleanup costs of current
2 owners and prospective purchasers under Federal
3 and State law;

4 (6) the abandonment or underutilization of af-
5 fected sites impairs the ability of the Federal Gov-
6 ernment and the governments of States and political
7 subdivisions of States to provide economic opportu-
8 nities for the people of the United States, particu-
9 larly the poor and unemployed;

10 (7) the abandonment or underutilization of af-
11 fected sites also results in the inefficient use of pub-
12 lic facilities and services, as well as land and other
13 natural resources, and extends conditions of blight
14 in local communities;

15 (8) cooperation among Federal agencies, de-
16 partments and agencies of States and political sub-
17 divisions of States, and owners and prospective pur-
18 chasers of affected sites is required to accomplish
19 timely response actions and redevelopment or reuse
20 of affected sites;

21 (9) there is a need for a program to—

22 (A) encourage voluntary cleanups of af-
23 fected sites; and

1 (B) facilitate the establishment of pro-
2 grams by States to foster voluntary cleanups of
3 affected sites;

4 (10) there is a need to provide financial assist-
5 ance to local governments to characterize certain af-
6 fected sites in order to facilitate the cleanup of the
7 sites so that the sites may be redeveloped for eco-
8 nomically beneficial uses; and

9 (11) there is a need to provide financial incen-
10 tives and assistance to qualified parties to clean up
11 certain affected sites so that the sites may be rede-
12 veloped for economically beneficial uses.

13 (b) PURPOSES.—The purposes of this Act are to cre-
14 ate new business and employment opportunities through
15 the economic redevelopment of affected sites that do not
16 pose a serious threat to human health or the environment
17 by—

18 (1) encouraging States to adopt and develop a
19 program for sites that would not currently be reme-
20 diated under other environmental laws (including
21 regulations) in effect on the date of enactment of
22 this Act;

23 (2) encouraging private parties to participate in
24 State voluntary cleanup programs that facilitate ex-

1 pedited response actions that are consistent with
2 business needs at affected sites;

3 (3) directing the Administrator to establish pro-
4 grams providing financial assistance to—

5 (A) encourage the development of State
6 voluntary cleanup programs;

7 (B) facilitate site characterizations of cer-
8 tain affected sites; and

9 (C) encourage cleanup of appropriate sites;
10 and

11 (4) reducing transaction costs and paperwork,
12 and preventing needless duplication of effort and
13 delay at all levels of government.

14 **SEC. 3. DEFINITIONS.**

15 Except if the context specifically provides otherwise,
16 as used in this Act:

17 (1) ADMINISTRATOR.—The term “Adminis-
18 trator” means the Administrator of the Environ-
19 mental Protection Agency.

20 (2) AFFECTED SITE.—

21 (A) IN GENERAL.—The term “affected
22 site” means a facility that has environmental
23 contamination that—

1 (i) could prevent the timely use, devel-
2 opment, reuse or redevelopment of the fa-
3 cility; and

4 (ii) is limited in scope and can be
5 comprehensively characterized and readily
6 analyzed.

7 (B) EXCEPTION.—Such term shall not in-
8 clude—

9 (i) any facility that is the subject of a
10 planned or an ongoing response action
11 under the Comprehensive Environmental
12 Response, Compensation, and Liability Act
13 of 1980 (42 U.S.C. 9601 et seq.);

14 (ii) any facility included, or proposed
15 for inclusion, in the National Priorities
16 List maintained by the Administrator
17 under such Act;

18 (iii) any facility with respect to which
19 a record of decision has been issued by the
20 President under section 104 of such Act
21 (42 U.S.C. 9604);

22 (iv) any facility that is subject to cor-
23 rective action under section 3004(u) or
24 3008(h) of the Solid Waste Disposal Act
25 (42 U.S.C. 6924(u) or 6928(h)) at the

1 time that an application for a grant or
2 loan concerning the facility is submitted
3 under this Act, including any facility with
4 respect to which a corrective action permit
5 or order has been issued or modified to re-
6 quire the implementation of corrective
7 measures;

8 (v) any land disposal unit with respect
9 to which a closure notification under sub-
10 title C of the Solid Waste Disposal Act (42
11 U.S.C. 6921 et seq.) has been submitted
12 and closure requirements have been speci-
13 fied in a closure plan or permit;

14 (vi) any facility that contains poly-
15 chlorinated biphenyls subject to response
16 under section 6(e) of the Toxic Substances
17 Control Act (15 U.S.C. 2605(e));

18 (vii) any facility with respect to which
19 an administrative order on consent or judi-
20 cial consent decree requiring cleanup has
21 been entered into by the President under
22 the Comprehensive Environmental Re-
23 sponse, Compensation, and Liability Act of
24 1980 (42 U.S.C. 9601 et seq.), the Solid
25 Waste Disposal Act (42 U.S.C. 6901 et

1 seq.), the Federal Water Pollution Control
2 Act (33 U.S.C. 1251 et seq.), the Toxic
3 Substances Control Act (15 U.S.C. 2601
4 et seq.) or title XIV of the Public Health
5 Service Act, commonly known as the Safe
6 Drinking Water Act (42 U.S.C. 300f et
7 seq.);

8 (viii) any facility controlled by, or to
9 be remediated by, a department, agency, or
10 instrumentality of the executive branch of
11 the Federal Government; and

12 (ix) any facility at which assistance
13 for response activities may be obtained
14 pursuant to subtitle I of the Solid Waste
15 Disposal Act (42 U.S.C. 6991 et seq.)
16 from the Leaking Underground Storage
17 Tank Trust Fund established under sec-
18 tion 9508 of the Internal Revenue Code of
19 1986.

20 (3) CONTAMINANT.—The term “contaminant”
21 includes any hazardous substance, as defined in sec-
22 tion 101(14) of the Comprehensive Environmental
23 Response, Compensation, and Liability Act of 1980
24 (42 U.S.C. 9601(14)) and oil, as defined in section

1 1001(23) of the Oil Pollution Act of 1990 (33
2 U.S.C. 2701(23)).

3 (4) CURRENT OWNER.—The term “current
4 owner” means, with respect to a voluntary cleanup,
5 an owner that is an owner at the time of the clean-
6 up.

7 (5) DISPOSAL.—The term “disposal” has the
8 meaning provided the term in section 1004(3) of the
9 Solid Waste Disposal Act (42 U.S.C. 6903(3)).

10 (6) ENVIRONMENTAL CONTAMINATION.—The
11 term “environmental contamination” means the ex-
12 istence at a facility of 1 or more contaminants that
13 may pose a health or environmental risk.

14 (7) ENVIRONMENT.—The term “environment”
15 has the meaning provided the term in section 101(8)
16 of the Comprehensive Environmental Response,
17 Compensation, and Liability Act of 1980 (42 U.S.C.
18 9601(8)).

19 (8) FACILITY.—The term “facility” has the
20 meaning provided the term in section 101(9) of such
21 Act (42 U.S.C. 9601(9)).

22 (9) GROUND WATER.—The term “ground
23 water” has the meaning provided the term in section
24 101(12) of such Act (42 U.S.C. 9601(12)).

1 (10) INDIAN TRIBE.—The term “Indian tribe”
2 has the meaning provided the term in section
3 101(36) of the Comprehensive Environmental Re-
4 sponse, Compensation, and Liability Act of 1980 (42
5 U.S.C. 9601(36)).

6 (11) LOCAL GOVERNMENT.—The term “local
7 government” means the governing body of a political
8 subdivision of a State, including the governing body
9 of any county, parish, municipality, city, town, town-
10 ship, Federally-recognized Indian tribe or similar
11 governing body.

12 (12) NATURAL RESOURCES.—The term “natu-
13 ral resources” has the meaning provided the term in
14 section 1001(16) of the Comprehensive Environ-
15 mental Response, Compensation, and Liability Act
16 of 1980 (42 U.S.C. 9601(16)).

17 (13) OWNER.—The term “owner” has the
18 meaning provided the term in section 101(20) of
19 such Act (42 U.S.C. 9601(20)), except that the term
20 shall also include a unit of State or local government
21 that acquired ownership or control involuntarily
22 through bankruptcy, tax delinquency, abandonment,
23 or other circumstances in which the government ac-
24 quires title by virtue of its functions as a sovereign.

1 (14) PERSON.—The term “person” has the
2 meaning provided the term in section 101(21) of
3 such Act (42 U.S.C. 9601(21)).

4 (15) PROSPECTIVE PURCHASER.—The term
5 “prospective purchaser” means a prospective pur-
6 chaser of an affected site.

7 (16) RELEASE.—The term “release” has the
8 meaning provided the term in section 101(22) of
9 such Act (42 U.S.C. 9601(22)).

10 (18) RESPONSE ACTION.—The term “response
11 action” has the meaning provided the term “re-
12 sponse” in section 102(25) of such Act (42 U.S.C.
13 9601(25)).

14 (19) SITE CHARACTERIZATION.—

15 (A) IN GENERAL.—The term “site charac-
16 terization” means an investigation that deter-
17 mines the nature and extent of a release or po-
18 tential release of a hazardous substance and
19 meets the requirements referred to in subpara-
20 graph (B).

21 (B) INVESTIGATION.—For the purposes of
22 this paragraph, an investigation that meets the
23 requirements of this subparagraph shall include
24 an onsite evaluation, and sufficient testing,
25 sampling and other field data gathering activi-

1 ties to accurately analyze whether the site is
2 contaminated and the health and environmental
3 risks posed by the release of contaminants at
4 the site. The investigation may also include re-
5 view of existing information (available at the
6 time of the review) and an offsite evaluation, if
7 appropriate.

8 (20) VOLUNTARY CLEANUP.—The term “vol-
9 untary cleanup” means a response action at an af-
10 fected site—

11 (A) undertaken and financed by a current
12 owner or prospective purchaser owner subject to
13 oversight and approval by a State; and

14 (B) with respect to which the current
15 owner or prospective purchaser agrees to pay all
16 costs of oversight by the State.

17 **SEC. 4. VOLUNTARY CLEANUP GRANT PROGRAM.**

18 (a) IN GENERAL.—

19 (1) ESTABLISHMENT OF GRANT PROGRAM.—

20 The Administrator shall establish a program to pro-
21 vide a grant to any State that submits an applica-
22 tion that is approved by the Administrator to estab-
23 lish or expand a State voluntary cleanup program
24 that meets the requirements of paragraph (3).

1 (2) CERTIFICATION.—In an application for a
2 grant under this section, a State shall be required
3 to certify that the voluntary cleanup program of the
4 State will meet the requirements of paragraph (3).

5 (3) REQUIREMENTS FOR STATE VOLUNTARY
6 CLEANUP PROGRAM.—A State voluntary cleanup
7 program meets the requirements of this paragraph if
8 the State—

9 (A) provides adequate opportunities for
10 public participation, including prior notice and
11 opportunity for comment, in selecting response
12 actions;

13 (B) provides technical assistance through-
14 out each voluntary cleanup;

15 (C) has the capability of assuming the re-
16 sponsibility for undertaking a cleanup if the
17 current owner or prospective purchaser fails or
18 refuses to complete the necessary cleanup; and

19 (D) provides adequate oversight and has
20 adequate enforcement authorities to ensure that
21 voluntary cleanups are completed in accordance
22 with all applicable Federal and State require-
23 ments, including any ongoing operation and
24 maintenance or long-term monitoring activities.

25 (b) GRANT AWARDS.—

1 (1) IN GENERAL.—In carrying out the program
2 established under subsection (a), the Administrator
3 shall, subject to the availability of appropriations,
4 award a grant to the Governor of each State that
5 submits an application to the Administrator that
6 meets the requirements of this section to conduct a
7 State voluntary cleanup program that the Adminis-
8 trator approves.

9 (2) GRANT AMOUNT.—The amount of a grant
10 awarded to any State under subsection (a) shall be
11 determined by the Administrator on the basis of the
12 financial need of the State for establishing or ex-
13 panding a voluntary cleanup program, and shall be
14 in an amount not less than \$200,000, but not to ex-
15 ceed \$500,000 for each fiscal year.

16 (3) REPORTING.—Each State that receives a
17 grant under subsection (a) shall submit to the Ad-
18 ministrator, not later than 2 years after receipt of
19 the grant, a progress report that includes a descrip-
20 tion of the cleanups made in accordance with the
21 voluntary cleanup program of the State.

22 (4) TERMINATION OF GRANTS.—If the Admin-
23 istrator determines that a State voluntary cleanup
24 program no longer meets the requirements of sub-
25 section (a)(3), the Administrator may terminate a

1 grant made to the State, and require full or partial
2 repayment of the grant award.

3 (c) STATE CERTIFICATION.—Each Governor of a
4 State that receives a grant under this section shall not
5 later than 1 year after receipt of an initial grant, and an-
6 nually thereafter, submit to the Administrator a certifi-
7 cation that states—

8 (1) the State voluntary cleanup program meets
9 the criteria referred to in subsection (a);

10 (2) all cleanups achieved or undertaken pursu-
11 ant to the State voluntary cleanup program fully
12 comply with all applicable requirements of Federal
13 or State law;

14 (3) public participation opportunities have been
15 adequate during the process of selecting a cleanup
16 method for each voluntary cleanup;

17 (4) voluntary cleanups achieved or undertaken
18 pursuant to the State voluntary cleanup program
19 have been undertaken in a manner that has reduced
20 or eliminated health and environmental risks to the
21 satisfaction of the State; and

22 (5) for any voluntary cleanup initiated pursuant
23 to the State voluntary cleanup program that has in-
24 creased health and environmental risks, the State

1 has taken timely and appropriate steps to reduce or
2 eliminate the health and environmental risks.

3 (d) STATUTORY CONSTRUCTION.—Nothing in this
4 Act is intended—

5 (1) to impose any requirement on a State vol-
6 untary cleanup program existing on or after the date
7 of enactment of this Act if the Governor of the State
8 has not been awarded a grant under this section; or

9 (2) to preclude a Governor of a State with a
10 voluntary cleanup program referred to in paragraph
11 (1) from submitting an application for a grant under
12 this section.

13 **SEC. 5. SITE CHARACTERIZATION GRANT PROGRAM.**

14 (a) IN GENERAL.—The Administrator shall establish
15 a program to provide grants to local governments to con-
16 duct site characterizations for affected sites at which vol-
17 untary cleanups are being conducted or are proposed to
18 be conducted under a State voluntary cleanup program
19 that is the subject of a grant award under section 4.

20 (b) SCOPE OF PROGRAM.—

21 (1) GRANT AWARDS.—In carrying out the pro-
22 gram established under subsection (a), the Adminis-
23 trator may award a grant to the head of each local
24 government that submits to the Administrator an
25 application (that is approved by the Administrator)

1 to conduct a site characterization at an affected site
2 within the jurisdiction of the local government.

3 (2) GRANT APPLICATION.—An application for a
4 grant under this section shall—

5 (A) include a description of the affected
6 site;

7 (B) include information demonstrating the
8 financial need of the owner of the affected site
9 for funds to conduct a site characterization;

10 (C) include an analysis that demonstrates
11 the potential of the affected site for stimulating
12 economic development on completion of the
13 cleanup of the site; and

14 (D) provide such other information, and be
15 in such form, as the Administrator determines
16 appropriate to carry out this Act.

17 (3) APPROVAL OF APPLICATION.—

18 (A) IN GENERAL.—In making a decision
19 whether to approve an application submitted
20 under paragraph (1), the Administrator shall
21 consider—

22 (i) the financial need of the owner of
23 the affected site for funds to conduct a site
24 characterization;

1 (ii) the demonstrable potential of the
2 affected site for stimulating economic de-
3 velopment on completion of the cleanup of
4 the affected site if the cleanup is nec-
5 essary;

6 (iii) the estimated fair market value of
7 the site after cleanup;

8 (iv) other economically viable, com-
9 mercial activity on real property—

10 (I) located within the immediate
11 vicinity of the affected site at the time
12 of consideration of the application; or

13 (II) projected to be located with-
14 in the immediate vicinity of the af-
15 fected site by the date that is 5 years
16 after the date of the consideration of
17 the application;

18 (v) the potential of the affected site
19 for creating new business and employment
20 opportunities on completion of the cleanup
21 of the site;

22 (vi) whether the affected site is lo-
23 cated in an economically distressed com-
24 munity; and

1 (vii) such other factors as the Admin-
2 istrator considers relevant to carry out the
3 purposes of the grant program established
4 under this section.

5 (B) GRANT CONDITIONS.—As a condition
6 for awarding a grant under this section, the
7 Administrator may, on the basis of the criteria
8 considered under subparagraph (A), attach
9 such conditions to the grant award as the Ad-
10 ministrator determines appropriate.

11 (4) GRANT AMOUNT.—The amount of a grant
12 awarded to any local government under subsection
13 (a) for characterization of an affected site shall not
14 exceed \$100,000.

15 (5) TERMINATION OF GRANTS.—If the Admin-
16 istrator determines that a local government that re-
17 ceives a grant under this subsection is in violation
18 of a condition of a grant award referred to in para-
19 graph (2), the Administrator may terminate the
20 grant made to the local government and require full
21 or partial repayment of the grant award.

22 **SEC. 6. ECONOMIC REDEVELOPMENT ASSISTANCE PRO-**
23 **GRAM.**

24 (a) IN GENERAL.—

1 (1) ESTABLISHMENT OF PROGRAM.—The Ad-
2 ministrator shall establish a program to provide a
3 loan to be used for the cleanup of affected sites to
4 an owner or a prospective purchaser of an affected
5 site (including a local government) at which a vol-
6 untary cleanup is being conducted or is proposed to
7 be conducted under a State voluntary cleanup pro-
8 gram that is the subject of a grant award under
9 section 4.

10 (2) DISQUALIFICATION.—If the Administrator
11 determines that an applicant has adequate resources
12 to conduct, in the absence of financial assistance
13 provided under this section, a cleanup that is the
14 subject of a loan application, the Administrator shall
15 not approve the application.

16 (b) SCOPE OF PROGRAM.—

17 (1) IN GENERAL.—

18 (A) LOANS.—The Administrator may
19 award a loan to be used to clean up an affected
20 site to each eligible applicant described in sub-
21 section (a)(1) that submits an application to the
22 Administrator that is approved by the Adminis-
23 trator.

24 (B) LOAN APPLICATION.—An application
25 for a loan under this section shall be in such

1 form as the Administrator determines appro-
2 priate. At a minimum, the application shall in-
3 clude the following:

4 (i) A description of the affected site,
5 including the nature and extent of any
6 known or suspected environmental con-
7 tamination at the affected site and the
8 legal description of the real property asso-
9 ciated with the affected site.

10 (ii) A complete description of the fi-
11 nancial standing of the applicant that in-
12 cludes a description of the assets, cash
13 flow, and liabilities of the applicant.

14 (iii) A written certification that at-
15 tests that the applicant has attempted, and
16 has been unable, to secure financing from
17 a private lending institution for the clean-
18 up action that is the subject of the loan
19 application. The certification shall speci-
20 fy—

21 (I) the name of each private
22 lending institution to which the appli-
23 cant submitted an application for a
24 loan; and

1 (II) with respect to each applica-
2 tion to a lending institution referred
3 to in subclause (I)—

4 (aa) the date that the loan
5 application was submitted and
6 the date that the applicant was
7 notified of the refusal;

8 (bb) the amount of the loan
9 requested;

10 (cc) the term of the loan re-
11 quested;

12 (dd) proof of the refusal of
13 the loan by the lending institu-
14 tion; and

15 (ee) the reasons given, if
16 any, by the private lending insti-
17 tution for the refusal of the loan
18 for the cleanup.

19 (iv) A justification for the amount of
20 the financial assistance requested, includ-
21 ing evidence that the amount of financial
22 assistance requested by the applicant is not
23 available to the applicant through other
24 sources.

1 (v) The proposed method, and antici-
2 pated period of time required, to clean up
3 the environmental contamination at the
4 affected site.

5 (vi) An estimate of the proposed total
6 cost of the cleanup to be conducted at the
7 site.

8 (vii) An analysis that demonstrates
9 the potential of the affected site for stimu-
10 lating economic development on completion
11 of the cleanup of the site.

12 (2) LOAN APPROVAL.—In determining whether
13 to award a loan under this section, the Adminis-
14 trator shall consider—

15 (A) the need of the applicant for financial
16 assistance to clean up the affected site that is
17 the subject of the loan application, taking into
18 consideration the financial resources available
19 to the applicant;

20 (B) the ability of the applicant to repay
21 the loan in a timely manner;

22 (C) the inability of the applicant to secure
23 a loan from a private lending institution or
24 through other means of financing;

1 (D) the extent to which the cleanup of the
2 affected site would reduce health and environ-
3 mental risks caused by the release of contami-
4 nants at, or from, the affected site; and

5 (E) the demonstrable potential of the af-
6 fected site for stimulating economic develop-
7 ment on completion of the cleanup, including—

8 (i) the estimated fair market value of
9 the affected site after cleanup;

10 (ii) other economically viable, commer-
11 cial activity on real property—

12 (I) located in the immediate vi-
13 cinity of the affected site at the time
14 of consideration of the application; or

15 (II) projected to be located with-
16 in the immediate vicinity of the af-
17 fected site by the date that is 5 years
18 after the date of the consideration of
19 the application;

20 (iii) the potential of the affected site
21 for creating new, or expanding existing,
22 business and employment opportunities on
23 completion of the cleanup of the site;

1 (iv) the estimated additional tax reve-
2 nues expected to be generated at the site
3 by the economic redevelopment;

4 (v) whether the site is located in an
5 economically distressed community;

6 (vi) whether the cleanup and the pro-
7 posed redevelopment is consistent with any
8 applicable State or local community eco-
9 nomic development plan; and

10 (vii) such other factors as the Admin-
11 istrator considers relevant to carry out the
12 purposes of the loan program established
13 under this section.

14 (3) LOAN AMOUNT.—The amount of a loan
15 made to an applicant under this section shall not ex-
16 ceed—

17 (A) 75 percent of the cost of the cleanup
18 that is the subject of the loan; or

19 (B) \$750,000,
20 whichever is less.

21 (4) STATE APPROVAL.—Each application for a
22 loan under this section shall, as a condition for ap-
23 proval by the Administrator, include a written state-
24 ment by the State under whose voluntary program

1 the voluntary cleanup is being conducted, or pro-
2 posed to be conducted that—

3 (A) the voluntary cleanup or proposed vol-
4 untary cleanup is cost effective; and

5 (B) the estimated total cost of the vol-
6 untary cleanup is reasonable.

7 (c) LOAN AGREEMENTS.—Each loan under this sec-
8 tion shall be made pursuant to a loan agreement. At a
9 minimum, the loan agreement shall include provisions that
10 address the following items:

11 (1)(A) The loan shall bear interest at the appli-
12 cable rate specified in subparagraphs (B) through
13 (D).

14 (B) For local government entities, the rate of
15 interest shall be 1 percentage point below the aver-
16 age current yield on marketable obligations of the
17 United States Treasury having comparable matu-
18 rities.

19 (C) For prospective purchasers of an affected
20 site, the rate of interest shall be 1 percentage point
21 above the average current yield on marketable obli-
22 gations of the United States Treasury having com-
23 parable maturities.

24 (D) For current owners of an affected site, the
25 rate of interest shall be 2 percentage points above

1 the average current yield on marketable obligations
2 of the United States Treasury having comparable
3 maturities.

4 (2) The maturity period of the loan (as deter-
5 mined by the Administrator) shall not exceed 10
6 years.

7 (3) The repayment of the loan during the matu-
8 rity period shall be in accordance with any schedule
9 for payments that the Administrator may specify in
10 the loan agreement.

11 (4) Each payment referred to in paragraph (3)
12 shall be made to the Secretary of the Treasury for
13 deposit in the general fund of the Treasury.

14 (5) If the sale or redevelopment of the affected
15 site results in a net profit to the applicant (taking
16 into consideration any amount of reimbursement
17 that may be required under this paragraph) in an
18 amount greater than or equal to 10 percent, in addi-
19 tion to paying interest on the loan (as specified in
20 paragraph (1)), the applicant shall make a payment
21 to reimburse the Federal Government for the full
22 and actual costs incurred by the Federal Govern-
23 ment of making the loan to the applicant, including
24 any administrative costs.

1 (6) The applicant shall comply with all applica-
2 ble Federal and State laws (including regulations)
3 applicable to the cleanup and shall proceed in ac-
4 cordance with any voluntary cleanup program in
5 effect in the State.

6 (7) The applicant shall guarantee repayment of
7 the loan.

8 (8) The applicant shall use the loan solely for
9 purposes of cleaning up the environmental contami-
10 nation at the affected site, and shall return any ex-
11 cess funds to the Administrator immediately on a
12 determination by the Administrator that the cleanup
13 has been completed.

14 (9) The loan shall not be transferable, unless
15 the Administrator agrees to the transfer in writing.

16 (10) Such other terms and conditions that the
17 Administrator determines necessary to protect the
18 financial interests of the United States.

19 (d) FEDERAL LIEN.—

20 (1) IN GENERAL.—A lien in favor of the United
21 States shall arise on the contaminated property sub-
22 ject to a loan under this section. The lien shall cover
23 all real property included in the legal description of
24 the property at the time the loan agreement pro-
25 vided for in this section is signed, and all rights to

1 the property, and shall continue until the terms and
2 conditions of the loan agreement have been fully sat-
3 isfied. The lien shall arise at the time the United
4 States grants a loan under this section, and shall
5 not be subject to the rights of any purchaser, holder
6 of a security interest, or judgment lien creditor
7 whose interest is or has been perfected under appli-
8 cable State law, except that any interest held by the
9 United States as security for a loan under this sec-
10 tion shall be subordinate to any lien on the property
11 for taxes due on the property to a State or political
12 subdivision thereof.

13 (2) DEFINITIONS.—As used in this paragraph,
14 the terms “security interest” and “purchaser” shall
15 have the meaning provided the terms in paragraphs
16 (1) and (6), respectively, under section 6323(h) of
17 the Internal Revenue Code of 1986.

18 (e) ENFORCEMENT.—

19 (1) IN GENERAL.—If any person fails to comply
20 with any condition of a loan agreement entered into
21 pursuant to this section, the Administrator may re-
22 quest the Attorney General of the United States to
23 commence a civil action in an appropriate district
24 court of the United States to enforce the loan agree-
25 ment.

1 (2) JURISDICTION OF DISTRICT COURT.—The
2 district court shall have jurisdiction to enforce the
3 loan agreement and grant such relief as the public
4 interest and the equities of the case may require.

5 **SEC. 7. REGULATIONS.**

6 The Administrator shall promulgate such regulations
7 as are necessary to carry out this Act. The regulations
8 shall include the procedures and standards that the Ad-
9 ministrator considers necessary, including procedures and
10 standards for evaluating an application for a grant or loan
11 submitted under this Act.

12 **SEC. 8. ECONOMIC REDEVELOPMENT REVOLVING FUND.**

13 (a) IN GENERAL.—There is established in the Treas-
14 ury of the United States a trust fund to be known as the
15 “Economic Redevelopment Revolving Fund” (referred to
16 in this section as the “Revolving Fund”) consisting of
17 such amounts as may be appropriated to the Revolving
18 Fund, or transferred or credited to the Revolving Fund
19 pursuant to this section.

20 (b) TRANSFERS TO THE REVOLVING FUND.—

21 (1) TRANSFERS.—There are hereby transferred
22 to the Revolving Fund amounts equivalent to the
23 amounts received in the Treasury pursuant to sec-
24 tion 6(c)(4).

1 (2) MONTHLY TRANSFERS.—The amounts
2 transferred by paragraph (1) shall be transferred at
3 least monthly from the general fund of the Treasury
4 to the Revolving Fund on the basis of estimates
5 made by the Secretary of the Treasury. Proper ad-
6 justment shall be made in amounts subsequently
7 transferred to the extent prior estimates were in ex-
8 cess of, or less than, the amounts required to be
9 transferred.

10 (c) MANAGEMENT OF THE REVOLVING FUND.—

11 (1) INVESTMENT.—The Secretary of the Treas-
12 ury shall invest such portion of the Revolving Fund
13 as is not, in the judgment of the Secretary, required
14 to meet current withdrawals. The investments may
15 be made only in interest-bearing obligations of the
16 United States. For such purpose, the obligations and
17 may be acquired—

18 (A) on original issue at the issue price; or

19 (B) by purchase of outstanding obligations
20 at the market price.

21 (2) SALE OF OBLIGATIONS.—Any obligation ac-
22 quired by the Revolving Fund may be sold by the
23 Secretary of the Treasury at the market price.

24 (3) INTEREST ON CERTAIN PROCEEDS.—The
25 interest on, and the proceeds from the sale or re-

1 demption of, any obligations held in the Revolving
2 Fund shall be credited to and form a part of the
3 Revolving Fund.

4 (4) REPORT.—It shall be the duty of the Sec-
5 retary of the Treasury to hold the Revolving Fund
6 and (after consultation with the Administrator) to
7 report to Congress each year concerning—

8 (A) the financial condition and the results
9 of the operations of the Revolving Fund during
10 the preceding fiscal year; and

11 (B) the expected condition and operations
12 of the Revolving Fund for the five fiscal years
13 following the preceding fiscal year.

14 (d) EXPENDITURES FROM THE REVOLVING FUND.—
15 Amounts in the Revolving Fund shall be available, as pro-
16 vided by appropriation Acts, only for purposes of carrying
17 out the loan program established under section 6.

18 (e) AUTHORITY TO BORROW.—

19 (1) IN GENERAL.—There are authorized to be
20 appropriated to the Revolving Fund, as a repayable
21 advance, an amount equal to \$15,000,000 for each
22 of fiscal years 1994, 1995, 1996, and 1997.

23 (2) REPAYMENT OF ADVANCES.—

24 (A) IN GENERAL.—If the Secretary of the
25 Treasury determines that there are sufficient

1 funds available in the Revolving Fund to repay
2 a repayable advance, the Secretary shall trans-
3 fer from the Revolving Fund to the general
4 fund of the Treasury an amount equal to the
5 amount of a repayment plus interest (as deter-
6 mined by the Secretary under subparagraph
7 (B)).

8 (B) RATE OF INTEREST.—The amount of
9 interest on an advance made under this sub-
10 section shall be at a rate determined by the
11 Secretary (as of the close of the calendar month
12 preceding the month in which the advance is
13 made).

14 **SEC. 9. AUTHORIZATIONS OF APPROPRIATIONS.**

15 (a) VOLUNTARY CLEANUP PROGRAM.—There are au-
16 thorized to be appropriated to the Environmental Protec-
17 tion Agency, to carry out section 4, an amount not to ex-
18 ceed \$15,000,000 for fiscal year 1994, and \$7,500,000 for
19 each of fiscal years 1995 through 1997.

20 (b) SITE CHARACTERIZATION PROGRAM.—There are
21 authorized to be appropriated to the Environmental Pro-
22 tection Agency, to carry out section 5, an amount to ex-
23 ceed \$15,000,000 for each of fiscal years 1994 through
24 1997.

1 (c) ECONOMIC REDEVELOPMENT ASSISTANCE PRO-
2 GRAM.—There are authorized to be appropriated to the
3 Environmental Protection Agency, to carry out section 6,
4 an amount to exceed \$15,000,000 for each of fiscal years
5 1994 through 1997.

6 (d) AVAILABILITY OF FUNDS.—The amounts appro-
7 priated pursuant to this section shall remain available
8 until expended.

9 **SEC. 10. REPORT.**

10 (a) IN GENERAL.—Not later than 1 year after the
11 date of enactment of this Act, and not later than January
12 31 of each of the succeeding 3 calendar years thereafter,
13 the Administrator shall prepare and submit a report to
14 the Committee on Environment and Public Works of the
15 Senate and the Committee on Energy and Commerce of
16 the House of Representatives describing the achievements
17 of each grant or loan program established under this Act.

18 (b) CONTENTS OF REPORT.—The report shall, with
19 respect to the programs established under this Act, include
20 a description of—

21 (1) the number of grant and loan applications
22 received by the Administrator during the preceding
23 calendar year;

1 (2) the number of grants and loans approved by
2 the Administrator during the preceding calendar
3 year;

4 (3) with respect to each voluntary cleanup pro-
5 gram of a State that was the subject of a grant
6 under section 4—

7 (A) the purposes to which the grant
8 awarded to the State was applied; and

9 (B) the achievements of the program;

10 (4)(A) the affected sites identified by local gov-
11 ernments; and

12 (B) the status of the sites referred to in sub-
13 paragraph (A) regarding subsequent cleanup and
14 economic redevelopment;

15 (5)(A) the affected sites at which a cleanup was
16 initiated pursuant to the economic redevelopment as-
17 sistance program under section 6; and

18 (B) the status of the sites referred to in sub-
19 paragraph (A) regarding ongoing or completed
20 cleanup actions and economic redevelopment activi-
21 ties;

22 (6) the grants and loans disapproved during the
23 preceding year, and the reasons for disapproval;

24 (7) the amount of grants and loans made dur-
25 ing the preceding year, and an estimate of the total

1 cleanup costs incurred by parties receiving a loan
2 under the economic redevelopment assistance pro-
3 gram; and

4 (8) the number of applicants for grants and
5 loans that may be in need of financial assistance in
6 establishing voluntary cleanup programs, performing
7 site characterizations, and conducting cleanups to
8 achieve economic redevelopment under this Act.

9 **SEC. 11. FUNDING.**

10 (a) ELIGIBLE COSTS DEFINED.—For the purposes of
11 each grant and loan program established under this Act,
12 the term “eligible costs” shall include administrative and
13 nonadministrative costs.

14 (b) NONADMINISTRATIVE COSTS.—As used in this
15 section, the term “nonadministrative costs” shall include
16 the cost of—

17 (1) oversight for a cleanup by contractor,
18 owner, or prospective purchaser;

19 (2) identifying the probable extent and nature
20 of environmental contamination at an affected site,
21 and the preferred manner of carrying out a cleanup
22 at an affected site;

23 (3) each cleanup, including onsite and offsite
24 treatment of contaminants; and

1 (4) monitoring ground water or other natural
2 resources.

3 (c) ADMINISTRATIVE COST LIMITATION.—Not more
4 that 15 percent of the amount of a grant or loan made
5 pursuant to this Act may be used for administrative costs.
6 No grant or loan made pursuant to this Act may be used
7 to pay for fines or penalties owed to a State or the Federal
8 Government.

9 (d) OTHER LIMITATIONS.—Funds made available to
10 a State pursuant to the grant program established under
11 section 4 shall be used only for establishing or administer-
12 ing a voluntary cleanup program.

13 **SEC. 12. STATUTORY CONSTRUCTION.**

14 Nothing in this Act is intended to affect the liability
15 or response authorities of any other law (including any
16 regulation) for environmental contamination including the
17 Comprehensive Environmental Response, Compensation,
18 and Liability Act of 1980 (42 U.S.C. 9601 et. seq.), the
19 Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), the
20 Federal Water Pollution Control Act (33 U.S.C. 1251 et
21 seq.), the Toxic Substances Control Act (15 U.S.C. 2601
22 et seq.), or title XIV of the Public Health Service Act,
23 commonly known as the “Safe Drinking Water Act” (42
24 U.S.C. 300f et seq.).



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